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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 DANIEL DAVID,
9 Petitioner,
10 v.
11 HARLEY G. LAPPIN,
12 Respondent.

No. C 07-4081 SI
No. CR 02-0062 SI

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**ORDER DENYING CERTIFICATE OF
APPEALABILITY**

Petitioner filed a notice of appeal but did not file an application for a certificate of appealability. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b) (Docket # 302). If petitioner had filed an application for a certificate of appealability, it would be DENIED because petitioner has not demonstrated that “jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484, 120 S.Ct. 1595, 146 L.Ed.2d 542 (2000) . The clerk shall forward to the court of appeals the case file with this order. *See United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir.1997).

IT IS SO ORDERED.

Dated: September 30, 2008



SUSAN ILLSTON
United States District Judge